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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,622	01/23/2004	Yam Fei Lian	006404.P014	7287

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EXAMINER
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SWERDLOW, DANIEL

ART UNIT	PAPER NUMBER
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2615

MAIL DATE	DELIVERY MODE
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07/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/763,622	<b>Applicant(s)</b> LIAN ET AL.	
	<b>Examiner</b> Daniel Swerdlow	<b>Art Unit</b> 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/3/06, 3/27/06</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of the invention represented by Claims 8 through 14 in the reply filed on 6 July 2007 is acknowledged.

### ***Drawings***

2. The drawings are objected to because Figures 3 and 4 require descriptive legends for blocks that are identified only by reference characters. 37 CFR 1.84 (o) states: "Suitable descriptive legends ... may be required by the examiner where necessary for understanding of the drawing." Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 13 and 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 13 recites the limitation "the relatively low level". There is insufficient antecedent basis for this limitation in the claim.

6. Claim 14 recites the limitations "the predetermined storage level" and "the relatively low level". There is insufficient antecedent basis for this limitation in the claim. While these limitations appear in Claims 9 and 13, respectively, Claim 14 depends from Claim 8 through Claim 11 and, as such, does incorporate matter from Claims 9 and 13.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 8, 9 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Morcom (US Patent 6,647,499).

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9. Regarding Claim 8, Morcom discloses a method for using a personal digital assistant or PDA 102 that corresponds to the apparatus claimed for playing audio stored in a removable storage device 104 that corresponds to the portable electronic memory module claimed (Fig. 1; column 3, lines 36-45), the method comprising: coupling (i.e., operatively connecting) the removable storage device 104 that corresponds to the portable electronic memory module claimed to the PDA 102 that corresponds to the apparatus claimed (column 3, lines 38-40); transferring data from the removable storage device 104 that corresponds to the portable electronic memory module claimed into a cache that corresponds to the buffer memory claimed, which inherently includes reading the data (Fig. 2, step 206; column 4, lines 60-63) and playing the audio data from the cache that corresponds to the buffer memory claimed (Fig. 2, step 208; column 5, lines 7-13); transferring enough data to fill the cache (i.e., continuing to transfer data until the buffer is full) (Fig. 2, step 206; column 4, lines 63-66) then powering down (i.e., suspending operation of) the removable storage device 104 that corresponds to the portable electronic memory module claimed (Fig. 2, step 207; column 5, lines 4-6); upon data needed for reproducing not being in the cache (i.e., the buffer memory being substantially empty) (Fig. 2, step 204; column 4, lines 53-57) powering on the removable storage device 104 that corresponds to the portable electronic memory module claimed (Fig. 2, step 205; column 4, lines 58-60) and transferring enough data to fill the cache (i.e., reading data from the portable electronic memory module until the buffer is full) (Fig. 2, step 206; column 4, lines 63-66); and repeating the filling and entering (Fig. 2, steps 203-210; column 5, lines 20-26).

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10. Regarding Claim 9, Morcom further discloses the processing of data (step 209) conditional on a requested amount (i.e., a predetermined storage level) being in the cache that corresponds to the buffer memory claimed (Fig. 2, steps 203-204; column 4, lines 49-57).

11. Regarding Claim 13, Morcom further discloses powering on the removable storage device 104 that corresponds to the portable electronic memory module claimed (Fig. 2, step 205; column 4, lines 58-60) and transferring enough data to fill the cache (i.e., reading data from the portable electronic memory module until the buffer is full) (Fig. 2, step 206; column 4, lines 63-66) upon data needed for reproducing not being in the cache (i.e., the buffer memory being substantially empty) (Fig. 2, step 204; column 4, lines 53-57).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morcom in view of Gibbs et al. (US 2002/0045961 A1).

14. Regarding Claim 11, as shown above apropos of Claim 8, Morcom anticipates all elements except that Morcom is silent as to the structure of the audio reproduction method. Gibbs discloses a portable audio device (Figs. 1-2) that includes an amplifier 116 and a phone jack 172 that corresponds to the audio outlet claimed (para. 0016). It would have been obvious

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to one skilled in the art at the time of the invention to apply the amplifier and jack taught by Gibbs to the apparatus taught by Morcom for the purpose of playing the reproduce audio content.

15. Claim 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morcom in view of Silvester (US 2003/0067847 A1).

16. Regarding Claim 10, as shown above apropos of Claim 8, Morcom anticipates all elements except simultaneous decoding and decrypting with reading. Silvester discloses a portable audio device (Figs. 3-4) that performs playback (i.e., decoding and decrypting) simultaneously with reading (para. 0016). Silvester further discloses that such an arrangement allows playback to begin sooner. It would have been obvious to one skilled in the art at the time of the invention to apply playback simultaneously with reading as taught by Silvester to the apparatus taught by Morcom for the purpose of realizing the aforesaid advantage.

17. Regarding Claim 12, as shown above apropos of Claim 8, Morcom anticipates all elements except reading and displaying information from the memory module. Silvester discloses a portable audio device (Figs. 3-4) that includes a display (15a, 15b) that displays information provided with the audio data (para. 0019). One skilled in the art would have known that such an arrangement enhances the user's listening experience and convenience. It would have been obvious to one skilled in the art at the time of the invention to apply the display of information in the audio file taught by Silvester to the apparatus taught by Morcom for the purpose of realizing the aforesaid advantages.

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18. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morcom in view of Gibbs as applied to Claim 11 above, and further in view of Shinada (US Patent 5, 822,288).

19. Regarding Claim 14, as shown above apropos of Claim 11, the combination of Morcom and Gibbs makes obvious all elements except the relatively low level being greater than the predetermined storage level. While the claim is indefinite for the reasons stated above, to advance prosecution examiner treats the claim here on the merits based on the interpretation that “the relatively low level” refers to the amount of unprocessed buffer data that triggers a refill of the buffer from the memory module and “the predetermined storage level” refers to the amount of data in the buffer necessary for initial reproduction to commence. Shinada discloses an audio reproduction apparatus that reproduces from a buffer with a buffer refill level (Fig. 4c, YTH) greater than an initial buffer level for commencement of reproduction (level of Fig 4c aligned with leading edge of Fig. 4b) (column 5, lines 52-67). Shinada further discloses that such an arrangement prevents interruptions in reproduction (column 6, lines 1-4) and reduces power consumption (column 1, line 66-column 2, line 2). It would have been obvious to one skilled in the art at the time of the invention to apply the buffer levels taught by Shinada to the combination made obvious by Morcom and Gibbs for the purpose of realizing the aforesaid advantages.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Daniel Swerdlow  
Primary Examiner  
Art Unit 2615

ds  
12 July 2007